

# United States Senate

WASHINGTON, DC 20510

May 26, 2022

The Honorable Michael Regan  
Administrator  
Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Dear Administrator Regan,

We are writing to thank the Environmental Protection Agency (EPA) for working with the Maricopa County Air Quality Department to develop flexible rules to modernize the generation of Emission Reductions Credits (ERCs). Having rules in place with options for public and private entities to generate ERCs will provide much-needed certainty for the region's continued economic development, with the benefit of cleaner air.

As you know, the Clean Air Act places an absolute cap on industrial source pollution in non-attainment areas. To maintain a cap on pollution, certain increases in emissions from major industrial sources must be offset by emission reductions from other sources. Companies are required to comply with these offsets through ERCs, which is increasingly difficult as the traditional methods have been exhausted in Maricopa County. This situation is particularly acute with respect to ozone non-attainment, as many of the major industries planning to expand and locate in the County are technology related and require offsets for ozone precursors.

For this reason, Maricopa County developed and submitted Rule 204 to the EPA which would allow for nontraditional sources to generate ERCs, such as electrification of private truck stops or the upgrading of on-site mobile equipment. This rule was submitted over two years ago and is still pending review by the EPA. It is our understanding that Maricopa County has also been working with EPA to develop a rule (draft Rule 205) to authorize the generation of Mobile ERCs that would be obtained by retrofitting diesel or gasoline powered vehicles to electric or lower emitting vehicles.

In a recent letter to Maricopa County, EPA staff indicated that they successfully worked with Intel Corporation to overcome the challenge of identifying offsets for their recent expansion. We are encouraged to hear about EPA's willingness to collaborate with Maricopa County and Intel Corporation to proactively find innovative solutions to generate ERCs. We ask that you continue working with the county on Rule 204 and draft Rule 205 to provide similar opportunities to all companies looking to expand or relocate to Arizona.

Arizona is a growing state that is leading the nation in job development and innovative technologies. We hope that the EPA will continue to work cooperatively with Maricopa County to identify and implement innovative solutions that result in the reduction of ozone pollution while also opening the door to critical economic development and job creation.

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In accordance with all existing agency rules, regulations, and ethical guidelines, we respectfully ask that you give this request full and fair consideration.

Sincerely,



Kyrsten Sinema  
U.S. Senator



Mark Kelly  
U.S. Senator



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
WASHINGTON, D.C. 20460

June 23, 2022

OFFICE OF  
AIR AND RADIATION

The Honorable Kyrsten Sinema  
United States Senate  
Washington, D.C. 20510

Dear Senator Sinema:

Thank you for your letter of May 26, 2022, to the U.S. Environmental Protection Agency (EPA) thanking EPA for working with the Maricopa County Air Quality Department (MCAQD) to develop flexible rules to modernize the generation of Emission Reduction Credits (ERCs) under the New Source Review permitting program. Your letter also requests that EPA continue to work with Maricopa County to finalize our review of Rules 204 and 205. The Administrator asked that I respond on his behalf.

Both rules 204 and 205 would allow for the generation of ERCs through non-traditional strategies and require careful review to ensure they meet Clean Air Act requirements. Rule 204 would allow for the electrification of private truck stops or the upgrading of on-site mobile equipment to generate ERCs. Rule 205 would authorize the generation of Mobile ERCs by retrofitting diesel or gasoline powered vehicles to electric or lower emitting vehicles.

EPA is committed to completing timely review of Rule 204, which was submitted as part of proposed revisions to the MCAQD's State Implementation Plan (SIP). EPA is prioritizing this review and plans to issue a Notice of Proposed Rulemaking to provide public notice on our proposed decision on this SIP revision in the fall. Regarding Rule 205, EPA is actively working with MCAQD as it prepares a draft of this rule. This summer we understand that MCAQD plans to hold a stakeholder meeting to seek comment on this draft prior to beginning a formal rulemaking process in late summer/early fall. We expect to receive a SIP revision regarding this rule by the end of the year.

We remain committed to assisting MCAQD in identifying and implementing innovative solutions to address their air quality concerns.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Karen Thundiyil in EPA's Office of Congressional and Intergovernmental Relations at [thundiyil.karen@epa.gov](mailto:thundiyil.karen@epa.gov) or (202) 564-1142.

Sincerely,

  
Joseph Goffman  
Principal Deputy Assistant Administrator



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
WASHINGTON, D.C. 20460

June 23, 2022

OFFICE OF  
AIR AND RADIATION

The Honorable Mark Kelly  
United States Senate  
Washington, D.C. 20510

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Sincerely,

  
Joseph Goffman  
Principal Deputy Assistant Administrator